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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/087,076

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Kazuo Kuroda

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LADAS & PARRY

5670 WILSHIRE BOULEVARD, SUITE 2100

LOS ANGELES, CA 90036-5679

EXAMINER

DURAN, ARTHUR D

ART UNIT

PAPER NUMBER

3622

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DELIVERY MODE

06/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/087,076	Applicant(s) KURODA, KAZUO	
	Examiner Arthur Duran	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,8 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 8, , 37-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. Claims 1, 3, 8, and 37-43 are examined.

Response to Amendment

The Amendment filed on 5/7/08 is insufficient to overcome the prior rejection.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/7/08 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. The specification is objected to as it appears to be a literal translation into English from a foreign document and is replete with grammatical and idiomatic errors. As an example, in the Description of the Related Art, second sentence:

In distribution of information through the internet, advertisement information is distributed arbitrarily and additionally when distributing for example, a specific content (including image information such as movie, music information and commodity information).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, 8, 37-39 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

For example, claim 1 teaches of “said transmitting medium used for distributing *an output distribution information*”. Examiner is unable to understand what this step accomplishes or what the applicant intended for the step to do. As another example, in claim 37 applicant teaches of a “notice device which *notices a notice information*”. (emphasis added). Again, examiner is unable to understand what this step accomplishes or what the applicant intended for the step to do.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 8, and 37-39, 40, 42, 43 are rejected under 35 U.S.C. 102(e) as being anticipated by do Rosario Botelho et al. (US 2002/0069105 A1 hereinafter “Botelho”). Botelho teaches an advertisement processing and targeting system.

5. Regarding claim 1, Botelho teaches of a system consisting of a registration device (Detailed Description, [0050]-[0053]; Fig. 5, 180, 182); advertisement acceptance device

(Detailed Description, [0051]-[0053]; Fig 5A, 184, 188, 190); ranking device (Detailed Description, [0061]); output device (Detailed Description, [0028]-[0031]; Fig. 1, 58); and an output module consisting of a transmitting medium (Summary of the Invention; Fig. 2), obtaining and display device (Summary of the Invention; Fig. 2).

6. Regarding claim 3, Botelho teaches of a vote accepting device (Summary of the Invention, [0011]; Detailed Description [0038]); vote outputting device (Detailed Description, [0032]-[0040], [0048]-[0052], [0067]-[0071], Fig. 2, 108; Fig. 10, 274, 276); a ranking device (Detailed Description, [0059]-[0063]; Fig 3.; Fig. 10) and a ranking distribution device (Summary of the Invention; Detailed Description, [0059]-[0063]; Fig 3.; Fig. 10).

Botelho further discloses displaying the ranking of ads based on the votes (Fig 4, “Ads that Suck”; [50, 69]; claims 28 and 55). Note that the current claim 3 only necessitates the displaying of the ranking list which is based on votes.

7. Regarding claim 8, Botelho teaches of a system whereby advertisers purchases advertisements that are displayed. (Detailed Description, [0035]-[0040], [0054]-[0062]; Fig. 5).

Claim 37: Regarding claim 37, as stated above, examiner is unclear what applicant intends by “a notice device *which notices a notice information . . .*” (emphasis added). As best understood by examiner, applicant teaches of a device that monitors the rank of an advertisement and time that an advertisement is displayed. Botelho teaches of a similar system of monitoring rank ([61]) and time ([43, 66]) and also of monitoring rank and time at the same time ([66]).

8. Regarding claims 38-39, Botelho teaches of dividing advertisements into tiers (Detailed Description, [0060]-[0063], update advertisements (Detailed Description, [0050]-[0053]; Fig. 5, 180, 182; Fig. 6; Fig. 7), and rank ads (Detailed Description, [0058]-[0065]; [0068]-[0072]).

Claim 40: Botelho discloses processing rank information ([61]).

Claim 42: Botelho disclose that the ad information can be in a plurality of languages ([40, 41, 51-53]).

Claim 43: Botelho discloses the above. Botelho discloses outputting a catalog of advertising information (Fig. 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Botelho et al. (US 2002/0069105)

Claim 41: Botelho discloses that new ad information and favorite ad information can be output (Fig 4, 'Advertisement', "Ads that Suck"; [50, 69]; claims 28 and 55). Note in Figure 4 that Botelho discloses an Advertisement and also lets users see vote tally results ("Ads that suck") at the same time. Botelho does not explicitly disclose that favorite ads can be displayed instead of ads that suck. However, it is obvious that users could alternatively see ads that are good. One would be motivated to do this to better display tally information of interest to the user ([50, 69]; claims 28 and 55).

Response to Arguments

9. Applicant's arguments filed 10/3/2007 have been fully considered but they are not persuasive.

On page 9-10 of the Applicant's Remarks dated 5/7/08, Applicant questions the rejection of the features, "a first registration accepting device which accepts registration of advertisement information to be output as advertisement from outside; an advertisement information accumulating device which accumulates the advertisement information registered by the first registration accepting device for a predetermined time; an outputting device which outputs the advertisement information to a transmitting medium." as stated in claim 1. Or, as stated on page 10 of the Remarks, Applicant states, "Botelho is silent on a first registration accepting device which accepts registration of advertisement information to be output as advertisement from outside".

Examiner notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

And, Examiner interprets these features to mean registering advertisements that are going to be transmitted.

Botelho discloses registering advertisements (Fig. 5; Fig. 6) that are going to be transmitted (Fig. 2; Fig. 3).

On page 10 of the Applicant's Remarks Applicant states that Botelho does not disclose, "a ranking device which generates a ranking information indicating a rank of the advertisement information".

Examiner notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Also, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). And, Examiner notes that claims are given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000).

And, Applicant's claims do not state how or based on what criteria the advertisements are ranked.

And, Botelho clearly discloses ranking the advertisements:

“[0061] . . . By highest priority, it is meant that the index file orders the advertisements so that advertisements with the highest priority are listed first in the index file and, therefore, are served first. The advertisements for a category/subcategory are served in the order listed in the index file. Accordingly, if advertiser A has purchased 100,000 impressions, advertiser B has purchased 80,000 impressions and advertiser C has purchased 50,000 impressions, advertiser A's ads would be placed at the top of the index file and be the first ads served. Advertiser B's ads would be "ranked" below that of advertiser A and advertiser C's ads would be ranked below that of advertisers B and C.”

Notice in this citation that the advertisements are ranked.

On page 10-11, Applicant states that Botelho does not disclose an outputting device or output information. However, Botelho discloses outputting information (Fig. 6, Redirect URL) and also an outputting device (Fig. 2, Ad Database, Ad Server, Internet, Client; Fig. 11, item 298).

On page 11, in regards to claim 3, Applicant states that Botelho does not disclose that voting affects the ad ranking. However, Botelho further discloses displaying the ranking of ads based on the votes (Fig 4, "Ads that Suck"; [50, 69]; claims 28 and 55). Note that the current claim 3 only necessitates the displaying of the ranking list which is based on votes.

Also, in regards to claim 37, Botelho teaches of a similar system of monitoring rank ([61]) and time ([43, 66]) and also of monitoring rank and time at the same time ([66]).

10. Also, in regards to the 35 U.S.C. § 112 rejections:

The examiner cited as examples parts of the specification and claims whereby the text was generally indefinite and narrative. Some of applicant's amendments fixed these problems, however as a whole, the claims continue to be replete with grammatical and idiomatic errors. As an example of clear grammatical errors, in claim 1, applicant teaches of "said transmitting medium used for distributing *an* output distribution information" (emphasis added). As another example, in claim 37, applicant teaches of "a notice device which *notices a notice information* when the . . ."

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Kim (20020052925) further discloses an ad catalog. Gerace (5,848,396) discloses monitoring time and rank (col 15, lines 10-45)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arthur Duran
Primary Examiner
Art Unit 3622

/Arthur Duran/
Primary Examiner, Art Unit 3622
6/12/2008